



**THE ATTORNEY GENERAL
OF TEXAS**

Gerald C. Mann

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ATTORNEY GENERAL

AUSTIN 11, TEXAS

Hon. A. J. Bryan, Jr.
District Attorney
Hillsboro, Texas

Opinion No. O-2075
Re: Annexation of Pleasant View
Common School District to Blum
Rural High School District--neces-
sity for approval of board of
trustees.

Dear Sir:

We are in receipt of your letter of March 11, 1940,
in which you submit the following question to this department
for our opinion:

"... did the County Board of School Trustees
have the power and authority to group Pleasant View
Common School District No. 105, having a scholastic
population of 39, with Blum Rural High School Dis-
trict No. P, having at the time a scholastic popu-
lation of 412, for high school purposes?"

The following facts are presented:

On May 24, 1929, the County Trustees of Hill County
"grouped" Blum Independent School District with scholastic
population of 184, Rock Creek Common School District with
scholastic population of 43, Caruthers Common School District
with scholastic population of 46, and Live Oak Common School
District with a scholastic population of 28, to form the Blum
Rural High School District No. P. This action was necessarily
taken under the first part of Article 2922a, R.C.S., 1925, un-
der the process designated as "grouping". By the terms of Ar-
ticle 2922b, the district thus formed was classified as a com-
mon school district.

October 1, 1938, the County School Trustees entered
an order grouping Union Hill Common School District having a
scholastic population of less than 150 with Blum Rural High
School District which it appears from our Opinion O-1639 had a
scholastic population of 362. In our Opinion O-1639, it was
held that this "grouping" was proper under the authority of
County Board of School Trustees of Limestone County v. Wilson,
15 S.W. (2d) 144, without the necessity of holding an election.
Necessarily the Blum Rural High School District was considered
as being classified as a common school district otherwise it
would have been an "annexation" under Article 2922a.

Your letter continues as follows:

"On February 22, 1940, the County Board of School Trustees entered an order attempting to group the contiguous Pleasant View Common School District No. 105 with Blum Rural High School District No. P. for high school purposes. It is admitted that Pleasant View Common School District has a scholastic population of 39, and that Blum Rural High School District has a scholastic population of 412."

Article 2922b, Revised Civil Statutes, 1925, provides as follows:

"Rural high school districts as provided for in the preceding article shall be classed as common school districts, and all other districts, whether common or independent, composing such rural high school district shall be referred to in this Act as elementary school districts; provided that all independent school districts enlarged by the annexation thereto of one or more common school districts as provided for in Article 2922a shall retain its status and name as an independent school district and shall continue to operate as an independent school district under the provisions of the existing laws and the laws hereafter enacted governing other independent school districts, except as otherwise provided for herein."

The Blum Rural High School District was not originally formed by "annexation" under Article 2922a and the action taken on October 1, 1938, was not an "annexation". Although it now has a scholastic population of 412 Blum Rural High School District is classified as a common school district.

The proposed district will contain 6 elementary districts and have an area of less than 100 square miles and for that reason Article 2922c, Revised Civil Statutes, 1925, does not apply and the rule laid down in County v. Mitchell (Com. Appl 1931) 38 S.W.(2d) 770; (T.C.A.) 48 S.W.(2d) 803, and other cases following same is not applicable.

Article 2922a, Revised Civil Statutes, 1925, provides, in part, as follows:

"In each organized county in this State and in any county which shall hereafter be organized,

the county school trustees shall have the authority to form one or more rural high school districts, by grouping contiguous common school districts having less than four hundred scholastic population and independent school districts having less than two hundred and fifty scholastic population for the purpose of establishing and operating rural high schools, provided also that the county school trustees may annex one or more common school districts or one or more independent school districts having less than two hundred and fifty scholastic population to a common school district having four hundred or more scholastic population or to an independent district having two hundred and fifty or more scholastic population upon the approval of the board of trustees of each school district affected; provided that when one or more common school districts are so annexed to a common school district having four hundred or more scholastic population, or to an independent district of two hundred and fifty or more scholastic population, as the case may be, a board of trustees shall be elected from the district at large and shall have the management and control of the district as enlarged until the time for the next election and qualifications of trustees for common and independent districts, as provided by General Law. . . ."

Whether the Blum Rural High School District is classified as a common school district with a scholastic population of more than 400, or as an independent district with a scholastic population of more than 250, the action of the county board was not "grouping" but "annexation" for only common school districts having a scholastic population of less than 400 and independent districts with a scholastic population of less than 250, may be "grouped" to form a rural high school district.

Both common school districts with more than 400 scholastic population and independent districts with more than 250 scholastic population come within the provision for "annexation" and the statute provides that annexation may be made "upon the approval of the board of trustees of each school district affected."

You state in your letter that the consent of the Board of Trustees of Pleasant View Common School District has never been obtained and no election has ever been ordered or held.

The approval of the Board of Trustees of the Pleasant View Common School District No. 105 never having been obtained

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as required by statute, it is our opinion that the County Board exceeded their authority in ordering the annexation.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By /s/ Cecil C. Cammack
Cecil C. Cammack, Assistant

APPROVED APR 4, 1940
/s/ W. F. Moore
FIRST ASSISTANT ATTORNEY GENERAL

APPROVED: OPINION COMMITTEE
BY: BWB, CHAIRMAN

CCC:RS:wb